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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/743,241	01/05/2001	Kazumi Saburi	81922.0004	5876

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EXAMINER

RAMAKRISHNAIAH, MELUR

ART UNIT	PAPER NUMBER
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2614

MAIL DATE	DELIVERY MODE
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10/19/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)
	09/743,241	SABURI ET AL.
Examiner	Art Unit	
	Melur Ramakrishnaiah	2614

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 08 August 2007.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 13,14,17,18,21,25-27 and 31-34 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) 13,14,17,18,21,25-27,32 and 33 is/are allowed.

6) Claim(s) 31, 34 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a))

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) Paper No(s)/Mail Date. ____ .
3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____ .
5) Notice of Informal Patent Application
6) Other: ____ .

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nishimo et al. (JP 401311744A, hereinafter Nishimo) in view of Irube (US PAT: 6,377,818) and Rao (US PAT: 5,896,165, filed 4-9-1997).

Regarding claim 31, Nishimo discloses a communication method using a communication terminal having a telephone function, a data communication function, and visual telephone function, comprising: receiving incoming information from outside of the communication terminal when a call is received, displaying contents in correspondence with data type information, and activating an application program (this is implied as the reference teaches functioning as a simple terminal with associated application program for conducting communication as a simple terminal or functioning as composite terminal with associated application program for conducting communication as a composite terminal), displaying contents and outputting contents in correspondence with data type information (figs. 6, 13, 15, see abstract).

Nishimo differs from claimed invention in that he does not teach mobile terminal functions for carrying out desired communications; including data type information which identifies telephone communication or visual telephone communication.

However, Irube discloses communication terminal apparatus which teaches mobile terminal functions for carrying out desired communications (fig. 1, see abstract; col. 4 lines 33-36); and Rao discloses method and system for video answering machine which teaches the following: including data type information (reads on identifying signal) which identifies telephone communication or visual telephone communication (col. 2 lines 4-8; col. 3 lines 54-61).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Nishimo's system to provide for mobile terminal functions for carrying out desired communications as this arrangement would provide mobility for user in connection with desired communications as is well known in the art; including data type information which identifies telephone communication or visual telephone communication as this arrangement would facilitate to automatically send picture information by automatically conducting procedure to send picture information or only voice information, thus enhancing user convenience.

3. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nishimo in view of Irube and Rao as applied to claim 31 above, and further in view of Sato (JP 406296277).

The combination differs from claim 34 in that it although it teaches the application program in correspondence with data type information is activated (for example application program required to respond to the call type either by sending audio or video message; see abstract of '165); it does not specifically teach this happens when key is pressed.

However, Sato discloses video telephone system which teaches the following: when key is [pressed, activating desired application required to send information.

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify the combination to provide for the following: when a key is pressed, the application program is activated as this arrangement would facilitate the user to effect desired communication as taught by Sato, thus providing user convenience to effect desired communication.

4. Claims 13-14, 17-18, 21, 25-27, 32-33 are allowed.

Response to Arguments

5. Applicant's arguments filed on 8-8-2007 have been fully considered but they are not persuasive.

Rejection of claim 31 under 35 U.S.C 103(a) as being obvious over Nishimo et al. (JP 401311744A, hereinafter Nishimo) in view of Irube (US PAT: 6,377,818) and Rao (US PAT: 5,896,165, filed 4-9-1997):

Regarding rejection of independent claim 31, Applicant alleges that "Rao's video answering machine does not receive data type information that permits a distinction to be made as to whether the communication type is a telephone communication or a visual telephone communication. Instead Rao "determines what kind of device the incoming call is received from" (COL. 2 lines 4-8). Therefore, Rao's device does not disclose or suggest the use of data type information, as defined by claim 31". Contrary to applicant's interpretation of Rao's reference, it not only teaches identifying device type such as call from video telephone or regular voice telephone as acknowledged by the

applicant, it is done by using identifying signal coming from the communication device which reads on applicant's data type to identify the type of call from the device (col. 2 lines 6-8).

Regarding Rao's reference, Applicant further indulges in presenting self-serving arguments such as, for example, the data type of incoming call is not necessary or relevant to this determination. On the contrary, it is necessary to identify incoming call device type in order to send video message or voice message by identifying device type using identifying signal sent by the device.

Applicant further constructs so many artificial arguments in order to undermine Rao's teachings such as objectives of Rao's invention are different from his invention, so on and so forth which are extraneous to the rejection of applicant's claims because Rao clearly teaches applicant's claim limitation such as including data type information (reads on identifying signal) which identifies telephone communication or visual telephone communication (col. 2 lines 4-8; col. 3 lines 54-61).

Applicant further alleges that "Finally it is not possible to achieve applicant's invention even if Rao is introduced. As described above, Rao determines the device type of the caller. However, a device type is not "data type information which identifies telephone communication or visual communication". This distinction has important consequences". Regarding this, as already explained, Rao teaches determining whether the incoming call is video or audio call by using identifying signal (which corresponds to applicant's data type identification, col. 4 lines 4-8) in order to respond to the call by sending proper response which clearly reads on applicant's claim limitation

such as data type information which identifies telephone communication or visual communication.

Applicant's arguments on the first paragraph of page 4 of his response noted and is not persuasive as activating appropriate application program is taught by Nishimo as set forth in the rejection of claim 31 above.

Applicant's arguments regarding dependent claim 34 is tied to independent claim 31 being patentable which is not as explained above.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

--(JP408265450A) to Kunugi discloses video telephone system which teaches: To make it possible to automatically set up whether the picture data of a user himself (or herself) are to be transmitted or not by registering whether a line can transmit a picture or not every incoming number and identifying an incoming number from an opposite party terminal.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

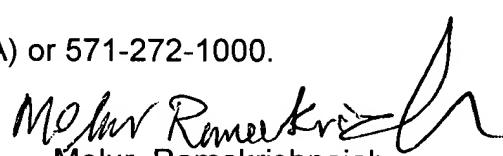
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melur Ramakrishnaiah whose telephone number is (571)272-8098. The examiner can normally be reached on 9 Hr schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curt Kuntz can be reached on (571) 272-7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Melur Ramakrishnaiah
Primary Examiner
Art Unit 2614